

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
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FLOOR DEBATE

April 4, 2002            LB 876, 1278

ASSISTANT CLERK:    33 ayes, 0 nays on the motion to advance the bill.

SENATOR COORDSEN:   LB 1278 is addre...is advanced. Next item, Mr. Clerk.

ASSISTANT CLERK:    Mr. President, LB 876. (Read title.) The bill was read for the first time on January 9th of this year. Referred to the Judiciary Committee. That committee reports the bill to General File with committee amendments attached. (AM2947 Legislative Journal page 771.)

SENATOR COORDSEN:   Thank you, Mr. Clerk. Senator Brashear to open on LB 876.

SENATOR BRASHEAR:   Mr. Chairman, members of the body, LB 876 amends the civil procedure of Nebraska from that of a code pleading system to a notice pleading system. Pleadings are the documents containing formal allegations of fact by the parties to a lawsuit, detailing their respective claims and defenses, the primary purpose of the pleadings being to provide the court and the parties with an explanation of the cause or causes of action and defenses against those causes of action. Nebraska currently uses a code pleading system which was adopted in 1867. Yes, 1867. Under such system, a plaintiff to a civil lawsuit is required to file a petition with a statement of detailed facts constituting his, her, or its cause of action. The defendant to such lawsuit is then entitled to contest such petition by filing a demur, which is an allegation of a defendant, which states that admitting the facts in the plaintiff's statement to be true, the facts are insufficient for the plaintiff to proceed, or to require the defendant to answer. The defendant also has the option of filing a motion to strike material from the plaintiff's petition, or a motion to make allegations more definite and certain, or make the petition more definite and certain. At the time the code pleading system was codified, the initial pleading in civil lawsuits provided the parties with the only procedure for learning their opponents' arguments before trial. Additionally, the facts of the pleading set the parameters of the trial. A notice pleading system of civil